

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

H Katz

Plaintiff,

-against-

Joe R Mogen

All That Glitter Inc.

Defendant(s).

06-cv-574 (P4)
NOTICE OF MOTION

06 cv ~~05474~~

[docket number] [judge's initials]
x 06 CV 05474 D.L. Irazo

PLEASE TAKE NOTICE that upon the annexed affidavit or

affirmation Joe R Mogen sworn to or affirmed

6/22/2006, 2006 and upon the complaint herein,
Joe R Mogen Honorable Denis Lizette Irazo
plaintiff will move this Court, (Judge's name) U.S.D.J.,

in room Self United States Courthouse, Brooklyn, New York, 11201,

on the 22 day of June, 2006, at (time) or as

soon thereafter as Self counsel can be heard, for an order pursuant to

Rule Self of the Federal Rules of Civil Procedure granting

by motion for a dismissal of the case

06 CV 05474 - Katz vs Joe R Mogen

6/22/2006 All That Glitter Inc

Dated: county, New York
MORGAN West Virginia

date

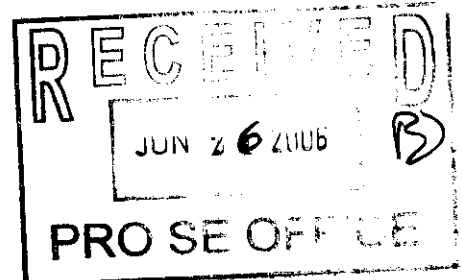
6/22/06

Joe R Mogen
Joe R Mogen

PLAINTIFF PRO SE

mailing - PO Box 602
Cross Junction Va.
22625

304-258-4247



WHEREFORE, I respectfully request that the court grant the within motion, as well as such other and further relief that may be just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 6/22/06 (date)
June 22 / 2006

Joe R Mogus
Your Signature

Print your name

Joe R Mogus

Today I am now asking this honorable court to dismiss the entire case brought by plaintiff Howard Katz vs. All That Glitters / Joe R. Mogus, Cv06-05474. I am asking this as new information has come to light, today, 6/21/06.

Today, during a phone conversation involving myself, Magistrate Judge Orenstein, and plaintiff's attorney Mr. Shmuel Klein, Mr. Klein disclosed that, (exhibit enclosed) the statement regarding the defendant's residence was in fact in error, a typographical error, he said, I quote "a typo". As made clear to this court previously the defendant, All That Glitters / Joe R. Mogus has not lived, worked, held a business license, owned property, or even been in New York State in many years, this also absolutely clear to Mr. Klein, in that his office has addressed numerous correspondence, and a summons and none to a New York address. I would think his "typo" would have become glaringly obvious and it was then incumbent upon him to notify this court of his error before we ever reached this stage! At any rate accepting Mr. Klein at his word this being an error, (his confusing New York with West Virginia) I submit to the court that it was then also in error for any aspect of this case to be brought before this honorable court, Eastern District, New York, the predicate of this venue now being an admitted error, consequently am now asking the entire case be dismissed. As the court is aware am a pro se defendant consequently not familiar with court protocol or law so I can only state this in plain English as I see it. The plaintiff will not be precluded from his just due, the case simply refiled in the appropriate venue and this time error free. Mr. Klein now not mistaking residence. I thank the court for consideration in this issue and also for consideration in that am a pro se defendant.

Sincerely
Joe R Mogus
Joe R Mogus

P.S. I must add after reading, in that this "typo" is a serious error I think a full explanation regarding how it could have occurred and continued is due the court and myself!

Thank You
Joe Mogus

Only
Exhibit

4. Plaintiff also asserts actions under states' laws, which may be brought within the supplemental jurisdiction of this Court, and Plaintiff respectfully requests that this Honorable Court exercise supplemental jurisdiction over said claims. 28 U.S.C. 1367.

* 5. Venue is proper in this District as the Defendant resides in this judicial district. 28 U.S.C. 1391(b)(1).

6. Plaintiff requests a trial by jury.

7. Over the past six years Defendant did request and receive from Plaintiff, various items of gold jewelry for the purpose of inspection and to show to Defendant's customers.

8. Said jewelry was often sold and Defendant would pay Plaintiff for the sold items, however, numerous items of jewelry remained with Defendant.

9. Plaintiff did demand that Defendant pay for the outstanding items and at the time of this complaint, the total sum due was \$151,000.00, exclusive of any adjustment in the market fluctuations of the price of gold.

10. Defendant promised to pay the outstanding balance and did make periodic payments from time to time.

11. Demand for payment has been made by Plaintiff upon defendant and defendant has refused to pay

COUNT TWO

12. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this complaint in Count One with the same force and effect as if herein fully set forth.

13. Said sum due to plaintiff constitutes an account stated.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____X

H Katz

Plaintiff,

-against-

Joe R Mogus
All That Glitter Inc
Defendants.

Affirmation of Service

06 CV 574

_____CV_____)

_____X

I, Joe R Mogus, declare under penalty

of perjury that I have served a copy of the attached Notice of
Motion and ~~Affirmation/Affidavit~~ in support upon Attorney

Schmuel Klein (Plaintiff Attorney)

whose address is

Office Schmuel Klein P.C.

268 Route 59

Spring Valley New York 10977

Dated:

6/22/06

, New York

Berkeley Springs
West Virginia
25411

Joe R Mogus
Signature

PO Box 602
Address

Cross Junction Va
City, State & Zip Code 22625

304 258 4247
Telephone

5 Wagon
20 Box 602
Joss Junction
VA 22025

USPS
* JUN 26 2020 *
EAGLE
To
Attn Special
Proc Se Office
Relph Vess Jr
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